



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Revised June 26, 2008

### **S. 2913**

### **Shawn Bentley Orphan Works Act of 2008**

*As reported by the Senate Committee on the Judiciary on May 15, 2008*

S. 2913 would limit the amount of damages that could be collected for infringement of a copyright if the party using the copyrighted work had, among other things, performed a diligent search to identify the owner but was unable to do so. The bill would require the Copyright Office to develop best practices for conducting and documenting a search and to certify that databases are available to search for the owners of copyrighted works. The bill also would require several reports by the Copyright Office and the Government Accountability Office.

Based on information from the Copyright Office, CBO estimates that implementing S. 2913 would cost about \$2 million over the 2009-2013 period, subject to appropriation of the necessary amounts. The costs for efforts to develop best practices and certify databases would be incurred immediately after enactment. Costs incurred to meet the bill's reporting requirements would occur later in the five-year period. Enacting S. 2913 would not affect direct spending or revenues.

By limiting damage awards for claims of infringement involving orphan works, S. 2913 would impose an intergovernmental and private-sector mandate, as defined in the Unfunded Mandates Reform Act (UMRA), on certain copyright owners. The cost of the mandate would be the forgone value of awards and settlements of such infringement claims. According to copyright experts, there have been very few lawsuits involving orphan works in recent years, and the value of the awards in those suits has not been large. Therefore, CBO expects that the cost to state, local, and tribal governments and the private sector would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$68 million and \$136 million, respectively, in 2008, adjusted annually for inflation).

On June 20, 2008, CBO transmitted its initial cost estimate for S. 2913. This revised estimate clarifies language used to describe the intergovernmental and private-sector mandate that would be imposed by the bill. However, the estimate of federal cost to implement the bill and the estimate of mandate costs are both unchanged.

The CBO staff contact for this estimate is Susan Willie. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.